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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,765	04/03/2000	Mareike Klee	PHD 99.046	4722

24737 7590 07/19/2004

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

THOMAS, ERIC W

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/541,765

Applicant(s)

KLEE ET AL.

Examiner

Eric W Thomas

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached document.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1, 3-12.

Claim(s) withdrawn from consideration: _____

8. ☒ The drawing correction filed on 4/3/00 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

 7/12/04

A. The rejections of claims 1 and 3-11 based under 35 USC 112, first paragraph are maintained by the examiner.

1. Applicant based his response on the amendment that was filed September 15, 2003. The examiner based his final rejection (mailed 5/21/04) on the amendment filed on 3/24/04 (see paragraph 1 of the final rejection (5/21/04)).

B. Konushi et al. (JP – 10-335179) and Konushi et al. (US 6,104,597) do disclose the use of the claimed $\text{Ba}_{1-x}\text{Sr}_x\text{TiO}_3$ ($0 \leq x \leq 1$) material specifically when $x = 1$.

1. Konushi et al. (both Japanese and U.S.) references (as acknowledged by applicant) disclose the dielectric layer can be formed from a SrTiO_3 material (this was also noted on the final rejection dated 5/21/04 – see paragraph 4 (page 4) & paragraph 5 (page 7)). When $x = 1$, then $\text{Ba}_{1-x}\text{Sr}_x\text{TiO}_3$ is $\text{Ba}_0\text{Sr}_1\text{TiO}_3$ or SrTiO_3

C. $\text{Ba}_{1-x}\text{Sr}_x\text{TiO}_3$ is not claimed in claims 9-12.

A limitation such as $\text{Ba}_{1-x}\text{Sr}_x\text{TiO}_3$ ($0 \leq x < 1$) [$(0 \leq x \leq 1)$] (*****Note that an additional search and further consideration of the references would be required**) would overcome the rejection of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric W Thomas whose telephone number is 571-272-1985. The examiner can normally be reached on M,Tu,Sat 9 am - 9:30 pm; W, Th, F 6 pm -10:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-1984. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A large, stylized handwritten signature in black ink, appearing to read 'C72' followed by a long horizontal stroke.

7/19/04

Eric W Thomas
Examiner
Art Unit 2831

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